

**Internal Revenue Service**

Department of the Treasury

Index Number: 1362.00-00

Washington, DC 20224

Person to Contact:

Number: **INFO 2000-0218**

Release Date: 9/30/2000

Refer Reply To:

CC:PSI:B01-COR-109897-00

Date:

August 08, 2000

X

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We are responding to a letter, submitted by you, requesting that X be allowed to change its entity classification to be treated as an association taxable as a corporation effective January 1, 1999 and to be treated as an S corporation also effective January 1, 1999. We are unable to respond to your request in its current form, however, we are furnishing the following general information relating to your request.

An eligible entity can change its default classification for federal tax purposes by submitting a properly completed Form 8832. This election will be effective on the date specified on the form where the date specified is no more than 75 days prior to the date it was filed or more than 12 months after the form is filed.

Section 301.9100-3 of the Procedure and Administration Regulations provides that the Commissioner may grant an extension of time to make a regulatory election. A private letter ruling is necessary to obtain relief under § 301.9100-3. The procedures for requesting a private letter ruling are set out in Revenue Procedure 2000-1 (copy enclosed). In addition, Rev. Proc. 2000-1 requires taxpayers to submit a user fee along with their ruling request. The standard user fee for a private letter ruling is \$5,000. However, taxpayers with gross income of less than \$1 million on their last-filed tax return qualify for a **reduced user fee** in the amount of \$500. If you are eligible to use the reduced fee provision you must include the statement described in § (B)(1)(b) of Appendix A with your request. Please review Appendix B for a sample format for requesting a private letter ruling.

COR-109897-00

For a corporation to be taxed as an S corporation an election must be made under section 1362(a) of the Internal Revenue Code. This election is made by submitting a properly executed Form 2553 to the applicable service center on or before the 15<sup>th</sup> day of the 3<sup>rd</sup> month of the first year that the corporation intends to be treated as an S corporation.

Section 1362(b)(5) provides that the Secretary may treat a late election as timely filed where it is determined that there was reasonable cause for the failure to timely make such election. A private letter ruling is also necessary to obtain relief under § 1362(b)(5).

If you decide to submit a formal request for a private letter ruling, please explain why your Form 8832 was filed late, provide documents supporting your actions as reasonable and in good faith, and include the proper user fee. If you would also like to request a ruling under 1362(b)(5) please explain why your Form 2553 was filed late, provide documents supporting your intention to be an S corporation from inception. Please refer your request to our office by adding the following to the address:

Attn: CC:CORP:T  
P.O. Box 7604  
Ben Franklin Station  
Washington, DC 20044

Direct to: CC:PSI:B01  
Room 5002

Please keep this letter with your tax records and feel free to provide a copy of it to the taxpayer. We hope that the above information proves helpful. If you have any further questions, please call Horace Howells at (202) 622-3561.

Sincerely,

**/s/ Dianna K. Miosi**

DIANNA K. MIOSI  
Chief, Branch 1  
Office of the Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures:  
Rev. Proc. 2000-1